

**RULE 23. APPEAL****Rule 23.01. Applicability of Rules of Civil Appellate Procedure**

Except as provided in Rule 23.02, 23.05, and 23.07, appeals of juvenile protection matters shall be in accordance with the Rules of Civil Appellate Procedure.

**Rule 23.02. Procedure**

**Subd. 1. Appealable Order.** An appeal may be taken by the aggrieved person from a final order of the juvenile court affecting a substantial right of the aggrieved person.

**Subd. 2. Timing of Filing Notice of Appeal.** Any appeal shall be taken within 20 days of the service of notice by the court administrator of the filing of the court's order. In the event of the filing and service of a timely and proper post-trial motion under Rule 21, or motion for relief under Rule 22 if the motion is filed within the time specified in Rule 21.01, subd. 1, the provisions of Minnesota Rules of Civil Appellate Procedure Rule 104.01, subds. 2 and 3, apply, except that the time for appeal runs for all parties from the service of notice by the court administrator of the filing of the order disposing of the last post-trial motion. Where the court administrator serves notice of the filing of the order on both a represented party and that party's attorney, the time for appeal shall begin to run based on the service on the party's attorney. Where the order expressly discharges trial counsel, the time for appeal shall begin to run once the party formerly represented by trial counsel has been served.

**Subd. 3. Service and Filing of Notice of Appeal.** Within the time allowed for an appeal, as provided in subdivision 2, the party appealing shall:

(a) serve a notice of appeal upon the county attorney and all parties or their counsel if represented, including notice of the correct case caption pursuant to Rule 8.08; and

(b) file with the clerk of appellate courts a notice of appeal, together with proof of service upon all parties, including notice of the correct case caption pursuant to Rule 8.08.

A notice of appeal shall be accompanied by a copy of the request for transcript required by subdivision 5.

**Subd. 4. Notice to Court Administrator.** At the same time as the appeal is filed, the appellant shall provide notice of the appeal to the court administrator. Failure to notify the court administrator does not deprive the court of appeals of jurisdiction.

**Subd. 5. Request for Transcript.** At or before the time for serving the notice of appeal, the appellant shall serve on the court reporter a written request for a transcript. At the same time, the appellant shall also provide the court reporter with a signed Certificate as to Transcript, which the court reporter shall sign and file with the clerk of appellate courts, with a copy to the trial court, unrepresented parties, and counsel of record, within 10 days of the date the transcript was ordered.

**Subd. 6. Failure to File Proof of Service.** Failure to file proof of service of the notice of appeal does not deprive the court of appeals of jurisdiction over the appeal, but is grounds only for such action as the court of appeals deems appropriate, including a dismissal of the appeal.

**Subd. 7. Notice to Legal Custodian.** The court administrator shall notify the child's legal custodian of the appeal. Failure to notify the legal custodian does not affect the jurisdiction of the court of appeals.

**Subd. 8. Timing of Briefs.** Rule 131.01 of the Rules of Civil Appellate Procedure applies to the timing of briefs in juvenile protection matters, except that the respondent shall serve and file a

brief and any addendum within 20 days after service of the brief of the appellant; within 20 days after service of the last appellant's brief, if there are multiple appellants; or within 20 days after delivery of a transcript ordered by respondent pursuant to Civil Appellate Procedure Rule 110.02, subd. 1, whichever is later.

### **Rule 23.03. Application for Stay of Trial Court Order**

The service and filing of a notice of appeal does not stay the order of the juvenile court. The order of the juvenile court shall stand pending the determination of the appeal, but the juvenile court may in its discretion and upon application stay the order. If the juvenile court denies an application for stay pending appeal, upon motion, a stay may be granted by the court of appeals.

### **Rule 23.04. Right to Additional Review**

Upon an appeal, any party or the county attorney may obtain review of an order entered in the same case which may adversely affect that person by filing a notice of review with the clerk of appellate courts. The notice of review shall specify the order to be reviewed, shall be served and filed within 15 days after service of the notice of appeal, and shall contain proof of service.

### **Rule 23.05. Transcript of Proceedings**

The requirements regarding preparation of a transcript shall be governed by Rule 110.02 of the Rules of Civil Appellate Procedure, except that the estimated completion date contained in the certificate of transcript shall not exceed 30 days from the date the request for transcript is received.

### **Rule 23.06. Time for Rendering Decision by Minnesota Court of Appeals**

All decisions regarding juvenile protection matters shall be issued by the appellate court within 45 days of the date the case is deemed submitted pursuant to the Rules of Civil Appellate Procedure.

### **Rule 23.07. Petition in Supreme Court for Review of Decisions of the Court of Appeals**

A petition for review shall be filed with the clerk of the appellate courts and served upon the parties within 15 days of the filing of the court of appeals' decision, and any response to such petition shall be filed with the clerk of appellate courts and served upon the parties within 10 days of service of the petition. The petition for review shall in all other respects be in accordance with Rule 117 of the Rules of Civil Appellate Procedure.

### ***2019 Advisory Committee Comment***

*Rule 23 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. The rule was formerly codified as Rule 47. The amendments are not intended to substantively change the rule's meaning.*

*Minnesota Statutes, section 260C.415, provides that an appeal may be taken "within 30 days of the filing of the appealable order," and "as in civil cases." The timing provisions of Rule 23.02, subd. 2 are a departure from this statute and from the Rules of Civil Appellate Procedure. Significantly, Rule 23.02, subd. 2 shortens the appeal deadline from 30 to 20 days. This change was made in 2009 to expedite the process based on federal standards for permanency timelines and best practices. In re R.K., 901 N.W.2d 156, 162 n.8 (Minn. 2017). The provisions of Rule 23.02 govern over the conflicting statute. In re J.R., Jr., 655 N.W.2d 1, 3 (Minn. 2003). The timing provisions of Rule 23.07 are a departure from the Rules of Civil Appellate Procedure and shorten the deadline for filing a petition with the Supreme Court from 30 to 15 days, and responding to the petition from 20 to 10 days.*

*Rules 9.03, subd. 1, and 23.02, subd. 2, are amended to make it clear that where the court administrator serves notice of the filing of an order on a party represented by an attorney and on*

*that party's attorney, time begins to run for purposes of appeal when the attorney has been served. This amendment is intended to remove any ambiguity created by the service of a "courtesy" copy of an order directly on the represented party. That potential ambiguity was noted by the Minnesota Supreme Court in In re R.K., 901 N.W.2d 156 (Minn. 2017). A party is represented by an attorney following appearance of the attorney and at all times until the attorney is either replaced by substitution of a new attorney or the attorney withdraws in accordance with Minn. R. Gen. Prac. 105 and Minn. R. Prof. Cond. 1.16, or the attorney's representation is discharged by Rule 36.05 or by order of the court. See, e.g., In re K.M. and T.R., 919 N.W.2d 701 (Minn. Ct. App. 2018).*